

Mary Robinson's Next Steps to Help End Congo's Deadly War

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Executive summary

Peace has a better chance to take root in eastern Congo now than at any time since the cycle of conflict began in the early to mid-1990s. Building on the Kampala-based talks with the M23 rebel group, which are too narrow to achieve peace and stability in the east, the African Union and U.N. Special Envoy Mary Robinson have a window to establish a more comprehensive and inclusive peace process that addresses the core drivers of violence in the Democratic Republic of the Congo, or DRC. This window, however, will not remain open indefinitely.

A number of factors are prying this window open. First, donor governments and the World Bank responded to the latest conflict cycle by suspending or altering aid to neighboring Rwanda for alleged cross-border support for the M23 rebel group that captured the city of Goma in November 2012. Second, in response to a growing consumer movement for conflict-free products, U.S. congressional legislation and multinational corporate reforms requiring transparency in the supply chains of minerals originating in Africa's Great Lakes region have made it much more difficult for armed groups to generate revenue from three of the four conflict minerals.¹ Third, the International Monetary Fund and the Extractive Industries Transparency Initiative have suspended work in Congo until the government enacts transparency reforms.² Together, this pressure has helped reduce external support to M23 and weaken it with internal splits, contributed to the surrender of M23 warlord Bosco Ntaganda, and placed heavy financial pressure on armed groups. It is also helping motivate Congo and Rwanda to participate more constructively in peace and reform processes.

The diplomatic framework for a more comprehensive and inclusive peace process originated with the signing of the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region by 11 African heads of state and U.N. Secretary-General Ban Ki-moon in February and the appointment of Robinson as U.N. special envoy to the region.³ While the framework commits Congo and its neighbors to key reforms, it is only the beginning. If the follow-up involves only a

periodic box-ticking exercise by regional heads of state, violence will resume as it has after other inadequate peace deals.

There will be three keys to unlocking a successful peace process that stems from the 11+4 Framework. First, Special Envoy Robinson and the international community must provide a forum and incentives for the “Three K’s”—Kigali, Kampala, and Kinshasa—to negotiate ways to legitimately cooperate on economic, security, and refugee issues. The framework commits Congo and its neighbors to deepening regional economic integration and respecting legitimate regional security interests.⁴ To date all three countries have been competing for control over the illicit extraction of resources through support to armed groups, but each stands to benefit significantly more from a responsible economic trade with greater international investment—if they can negotiate outstanding issues such as investment frameworks for minerals and anti-smuggling mechanisms. Building on lessons from Northern Ireland and Central America,⁵ investors and donors should provide incentives for cooperation by exploring the expansion of investments in conflict-free natural resources in the region. The countries should also agree on a comprehensive security strategy to deal with illegal militias in order to support the intervention brigade agreed to by the U.N. Security Council.

Second, Special Envoy Robinson and a new special representative of the secretary-general in Congo will need to work closely with the Congolese government and civil society to enact real institutional reforms that allow for democratic transformation in Congo.⁶ This builds on Congo’s commitment in the framework to undertake reform on governance, decentralization, and security-sector reform issues. To fulfill this mandate, the government should show good faith in reform by holding local elections and then engaging in an inclusive institutional reform process that includes proposals from the Congolese government, political parties, and civil society. Following Congolese President Joseph Kabila’s announcement to initiate a national dialogue, there is a need for an impartially facilitated Congolese national dialogue that respects the constitution and allows civil society, government, key armed groups, and political parties to discuss reform proposals. This should culminate in the establishment of electoral processes and genuine reforms that reflect the will of the Congolese people.

Third, a credible peace process must demand repercussions for those who have committed mass atrocities. Rather than continuing to allow human-rights abusers to gain positions of power in the government or the military, the peace process should ensure that regional governments cooperate to bring to justice those who are responsible for war crimes and crimes against humanity. A possible agreement in the current Kampala-based talks that gives amnesty to M23 commanders and integrates them into Congo’s army without any human-rights vetting is troubling because it could result in the same mistakes of past agreements that allowed impunity for serious crimes and led to renewed conflict.⁷ Any deal arising from the current process must be different. It cannot simply forgive those commanders most responsible for atrocities.

The international community can help make a more comprehensive and inclusive peace process work with strong support. In particular, because of its close relationships with all regional players and its substantial international leverage, the U.S. government should play an active role in the process. Below are six recommendations for effective U.S. support of a comprehensive peace process.

1. The United States should work with African partners and Special Envoy Robinson to build this more comprehensive peace process to help Congo, Rwanda, and Uganda fulfill the commitments detailed in the framework, including ensuring proper staffing for Special Envoy Robinson.
2. President Barack Obama and Secretary of State John Kerry should quickly deploy the high-level U.S. envoy—who has already been identified as former Sen. Russ Feingold to support the U.N.-led peace process.
3. The U.S. government and U.N. Security Council should place targeted sanctions against officials and traders, particularly conflict gold smugglers in the region, who are violating the U.N. arms embargo on Congo and enabling armed groups to gather strength.
4. The United States should work with the European Union, or EU, to convene key electronics, gold, smelting, mining companies, socially responsible investors and nongovernmental organizations, or NGOs, in an investment initiative aimed at addressing risks and identifying opportunities for conflict-free economic investment in the Great Lakes region. This should take place simultaneously with the peace talks through a series of mini-summits and a high-level conference.
5. The Obama administration should support the International Criminal Court's, or ICC's, efforts to investigate and issue arrest warrants for the armed-group leaders who are most responsible for war crimes and crimes against humanity. Additionally, the administration should work with regional partners to facilitate the arrest of these leaders upon indictment.
6. The United States should work with the U.N. and World Bank to develop enhanced disarmament, demobilization, repatriation, reintegration, and resettlement programs. It should also provide military advisors to advise and enhance the capacity of the new U.N. Intervention Brigade, similar to the U.S. military advisory support role to the regional military forces in the effort to counter the Lord's Resistance Army, or LRA.

1. Regional negotiations

Most armed groups in eastern Congo have been sponsored by governments in the region to extract or control natural resources—land, minerals, and smuggling routes, among others—and pursue political and security interests, often across borders. These interests inevitably come into violent conflict, causing significant suffering, not least because states are meddling in their neighbors' territory. To deal with these armed groups, it is necessary to address the interests of the entities that support them as well as local Congolese interests. To build upon the U.N. framework and allow for a successful peace process, Congo, Rwanda, and Uganda must work together to jointly address their underlying interests as well as the immediate security issues that continue to destabilize the region. Regardless of whether a deal with M23 leaders is signed in Kampala, the three countries must agree on a more comprehensive strategy to cooperate in dealing with cross-border threats of armed groups that may choose to remain outside of the peace process, such as elements of the M23 and the Democratic Forces for the Liberation of Rwanda, or FDLR, as well as local Congolese groups that are allied with either one.

Another source of regional tension is the struggle for control of the region's resources, particularly Congo's abundant mineral wealth. The U.N. framework highlights regional economic integration,⁸ which must include regional talks to address this problem. The situation is starting to change for the better, as criminality becomes more costly and reforms such as the Dodd-Frank legislation on conflict minerals make it more difficult for armed groups and their sponsors to profit from the illicit trade. The prices of tin, tantalum, and tungsten that are not properly traced to conflict-free mines are now one-third that of traceable conflict-free minerals.⁹ Armed groups' profits from these minerals are now significantly lower than their pre-2010 levels, which was the high point for smuggling.¹⁰ Congo's mineral exports have plummeted, and Rwanda faces a potential *de facto* embargo on its minerals unless better systems are set up to reduce the trade of smuggled conflict minerals. As a result, economic incentives are shifting away from illicit smuggling and slowly making it more profitable to be part of a legal, transparent market.

Process

Previous peace deals for eastern Congo were all secretive arrangements. The lack of outside involvement and transparency contributed to peace-deal breakdowns, as there was limited civil society or development-partner interest to keep them in place. Any new process must learn from past mistakes, and Special Envoy Robinson is in the process of ensuring that local civil-society groups are closely involved in the process from the beginning. Furthermore, envoys from the United States and other key donor countries should play strong supportive roles behind the scenes, giving diplomatic support and using economic and political leverage such as targeted sanctions and economic incentives at critical junctures to keep the talks on track.

Issues

Key issues to be negotiated that could build confidence and help transform incentives for the countries in the region include:

- **Developing security measures against cross-border threats.** Peace talks could result in enhanced joint verification of cross-border threats, shared intelligence with the U.N. Intervention Brigade, and relocation for some armed groups. The current joint-verification mechanism is ineffective and should be broadened. Recalcitrant militias—the FDLR, which is partly made up of former participants in Rwanda’s genocide, and other armed groups that refuse to sign peace agreements, including spoiler M23 elements—should be the focus of enhanced operations.
- **Harmonizing tariffs and developing a strategy on regional refining.** Current tariff structures provide incentives for smuggling instead of cooperation. Congo, for example, has a 3.5 percent export tax on minerals, while Rwanda has no tariff on minerals, making it more lucrative for traders and smugglers to say that Congolese minerals originate in Rwanda.¹¹ These should be negotiated to be on par. Furthermore, it will be important for the countries to devise a strategic plan to enable the refining of oil and smelting minerals in the region rather than competing over which countries should get smelting or refining plants. This could include Ugandan investment in some Congolese gold mines and Congo setting up a special economic zone to attract small-scale factories to refine gold and manufacture jewelry, as is currently being done in Sierra Leone.¹² The objective here is to increase wealth-generating opportunities for all of the countries in the region—to expand the pie rather than fight over a diminishing one.
- **Returning refugees.** Tens of thousands of Congolese refugees remain in Rwanda, and over 100,000 Rwandan refugees remain in Congo, remaining left the 1994 genocide and different waves of violence since then. The return of both groups has proven controversial, and the tripartite agreement between Congo, Rwanda, and the United Nations has not been fully implemented. Negotiations should take place on a sustainable agreement that is properly monitored and followed up, and should involve the International Conference on the Great Lakes Region, or ICGLR.
- **Agreeing on monitoring mineral certification.** Programs to tag sacks of minerals at mines make it easier for technology, automotive, and metals companies to trace their supply chains, but the tagging system is implemented and monitored by regional governments and local traders—the same groups that were involved in conflict trading. As the U.N. Group of Experts on the DRC highlighted,¹³ smuggling continues, and minerals from one mine are frequently tagged as originating from another. To stop such fraud, the ICGLR designed a monitoring system to spot-check mines and trading routes and sanction traders of conflict minerals. Regional governments should finalize agreement on the system, the Independent Mineral Chain Auditor, and ensure that the auditor has an adequate team to implement the system effectively. This monitoring will help multinational companies verify that minerals are conflict free.

- **Enhancing transparency in investment codes.** Mining concessions are too often awarded to informal speculators or shell companies rather than long-term investors or fair-trade groups with commitments to development. Only 2 out of 30 mines in the North Kivu province, for example, have legitimate investors.¹⁴ The partnership between armed groups, speculators, and smugglers helps feed the violence. Despite Congo's serious governance problems and a negative investment climate, the country's mining minister proposed that the government should take a 35 percent share in all mining contracts in 2012. This would be a further disincentive to private investment and would entrench the positions of the informal speculators who collude with armed groups.¹⁵ While Congo must take specific actions to remedy this situation, states in the region should harmonize their investment codes to foster investment that would benefit all parties. This should include the adoption of transparent, concession-bidding processes to provide incentives for long-term, conflict-free investment. A further step should be for Rwanda and Uganda to join the Extractive Industries Transparency Initiative, or EITI, which Congo is already implementing. EITI helps reduce corruption and allows investors to gain confidence in resource-rich countries.¹⁶ Finally, as is set out in the ICGLR certification scheme, states should also publish data comparing mine production to exports and make use of mineral-fingerprinting technologies to conduct spot-checks on mineral origins.
- **Partnering to jointly develop gas and lower power costs.** Building on models from Nigeria and São Tomé's joint offshore oil development and Malaysia and Thailand's joint natural-gas development,¹⁷ Congo and Rwanda could agree on the full demarcation and joint development of a potentially lucrative methane-gas reserve. The reserve is located underneath Lake Kivu along the Congo-Rwanda border and is worth up to an estimated \$41 billion.¹⁸ Some of the gas is due to be extracted on the Rwandan side in 2013, but there is significantly more potential underneath the lake for both countries. Building on stepping-stone agreements to date, a more comprehensive deal could lower electricity costs for the two countries, which are approximately double those of Uganda and others in the region.¹⁹

2. A national democratic reform process for Congo

Regional negotiations are essential to a lasting peace, but Congo struggles with governance issues that must be addressed as part of the peace process. Previous reform attempts have failed in Congo due to the undemocratic political system based on patronage and corruption, as evidenced by the discredited 2011 presidential elections.²⁰ A central task for Special Envoy Robinson and the international community will thus be to help create political space for democratization.

Process

Because President Kabila is facing an internal legitimacy crisis following the M23 incursions and the 2011 elections, the Congolese government will need to work hard to prove that it wishes to work for change. A reform program will have credibility and a greater chance for success with the active involvement of Congolese civil society—including women leaders, political parties, and representatives from major armed groups—and if it focuses on democratization. One way to create a more even playing field for the participants in the process would be a national dialogue facilitated by an independent third party.²¹ The holding of overdue local elections would also be a critical first step.

Issues

Numerous governance problems plague Congo. Five of them have a particular effect on the conflict in the east, corrupting the security sector, increasing grievances against the government, and preventing the state from establishing authority in the region. The reform process must address these issues.

- **Ensuring decentralization and local elections.** Power remains highly centralized in the capital of Kinshasa, stifling local decision making, preventing democratization, and increasing corruption. The 2005 constitutional amendment that stipulates that 40 percent of a province's revenues are to stay in the province remains unimplemented,²² perpetuating the impoverishment of the people in resource-rich eastern Congo. The government should implement existing decentralization policies and set a timetable for local, mayoral, and council elections, which are overdue by more than one year.
- **Reforming the army and police.** Congo's army remains a source of corruption, instability, and violence. A root-and-branch reform of the security services is needed, with prosecutions of some officers for human-rights abuses and corruption, new hiring policies, redeployments, and early retirements for other officers. Some of this can be done without large new aid packages, such as a less costly U.S. security-sector reform, or SSR, management-advising program. The government and the national oversight mechanism laid out in the U.N. framework should devise a concrete SSR proposal, which should be endorsed in national dialogue and passed into law by the parliament.
- **Combating impunity.** Most armed-group commanders who have committed extensive human-rights abuses in the Kivus and other areas of Congo remain at large. Despite his spotty record on justice reform, President Kabila recently indicated interest in combating impunity. The Congolese government should set up mixed chambers of Congolese and international personnel to prosecute those accused of war crimes and crimes against humanity within Congo. This reform should be based on the recommendations from the 2010 U.N. mapping report and the 2011 Goma conference on justice that received widespread support from Congolese civil society.²³

- **Addressing local conflicts.** Eastern Congo's armed conflict has exacerbated intercommunal tensions. The domestic reform process must address these tensions to achieve a sustainable peace. Steps should include the revitalization of local peace-building efforts such as representative and inclusive intercommunal councils. In addition, parliament should amend the constitution to provide greater protections for minorities.
- **Resolving land conflicts.** Armed groups are taking over large tracts of land in eastern Congo, displacing more than 2 million people.²⁴ Congolese military commanders and militia leaders have set up cattle ranches and other businesses on these properties. Some of them occupy the land as squatters, and others obtained titles to land from successive national governments. These often conflict, however, with the rights of existing title holders. As displaced persons return home, they face land conflicts with the armed groups that can provoke violence. A land commission should be set up, investigations should be conducted on land titling, the national land law should be reviewed, and land-reform proposals should be discussed in a national dialogue.

3. International support for regional efforts to deal with armed groups

In addition to buttressing the regional negotiations and Congolese reforms, the international community must actively support the efforts of the region to deal with armed groups if the peace process is to reach successful conclusions. Three main international initiatives in particular can be helpful. First, the deployment of the U.N. Intervention Brigade provides an opportunity to form a security partnership between the United Nations, the countries in the region, and the United States. A similar partnership between the United States, Uganda, and the African Union helped reduce the capacity of the LRA when the United States deployed 100 military advisors. Such a partnership could counter the FDLR and M23 elements that do not participate in the peace process. The U.S. advisors deployed for this purpose could train and equip the U.N. forces and provide intelligence, tactical, and strategic advice.

Second, the military effort must include a program to provide incentives for defections from the armed groups, which is part of the expanded U.N. Organization Stabilization Mission in the Democratic Republic of the Congo, or MONUSCO, mandate.²⁵ A similar approach is already hindering the LRA²⁶ and could be a useful model for enhancing MONUSCO's efforts. Revenues of the armed groups are decreasing due to the decline in the illegal minerals trade, and this in turn makes their fighters more vulnerable to defection efforts. MONUSCO's disarmament, demobilization, repatriation, reintegration, and resettlement program, or DDR/RR, for foreign-armed groups has seen some success, but it lacks adequate resources. The Congolese government needs to carry out DDR/RR reforms for domestic armed groups, but thus far it has made little effort to achieve this goal. Enhanced programs could include several components,²⁷ such as community-based reintegration projects, that would eliminate the incentive to form new

armed groups. Other elements could include dropping leaflets that encourage fighters to defect, expanding DDR/RR radio programs to local fighters, and resettling former combatants in other provinces or a third country.

Third, international support for the region's justice initiatives is essential. The surrender of former M23 leader Bosco Ntaganda was an important step, but many militia commanders remain free in eastern Congo. In its earlier peace processes, Congo integrated the militias into Congo's army, rewarding their commanders with ranks as high as general. This shortsighted approach should not be repeated. The International Criminal Court should investigate and issue arrest warrants for the leaders of the FDLR, M23, and the Congolese army who bear the greatest responsibility for war crimes and crimes against humanity. Leaders with outstanding ICC arrest warrants, such as FDLR military commander Sylvestre Mudacumura, should be brought to justice.

4. A responsible investment initiative in support of peace

As the parties negotiate, they should know that their cooperation and success will lead to greater foreign investment. Similar to peace processes in Central America, Singapore and Malaysia, and the Middle East, the private sector and donor agencies can play a constructive role. Private-sector involvement was instrumental in building a broad constituency to support the peace process in El Salvador, in cross-border peace initiatives between Ireland and Northern Ireland, and in peace talks in South Africa and Mozambique.²⁸ Pilot initiatives in Congo are already showing that public-private partnerships, if done in a transparent manner, can provide benefits. The Conflict-Free Tin Initiative started by tech giant Philips and the Dutch government, for example, doubled the price that artisanal miners and Congolese minerals exporters fetch for tin ore. Additionally, the Solutions for Hope project started by Motorola Solutions proves that conflict-free minerals mined in Congo can participate in the international market by selling them to electronics companies through a transparent, traceable chain of custody similar to a FedEx tracking system.²⁹

These pilot projects should be expanded and replicated to attract responsible investment to the Great Lakes region, particularly in Congo, Rwanda, and Uganda. This could help fulfill the economic-integration commitments of the U.N. framework, and it would uphold the approach of the Public-Private Alliance for Responsible Minerals Trade, a government-corporate-NGO partnership. The initiative should have two main aims: design responsible trade partnerships for potential investors in natural resources, infrastructure, and financial services and find solutions to obstacles to responsible investment. If such a process were to occur alongside the peace talks, then these governments might realize that the establishment of a stable peace could lead to significant investment. Investment will not immediately flow to the countries in the region, however, because of the considerable barriers presented by security, poor infrastructure, a lack of

incentives, and inadequate governance. The initiative should therefore enable potential investors to raise their concerns with responsible officials to devise plans to remove investment barriers.

Process

The U.S. government should partner with investors and the European Union to organize a series of meetings to discuss responsible investment in the Great Lakes region over the next year. Participants could include mining, electronics, and smelting companies; fair-trade mining groups; the World Bank; local civil society and businesses; financial investors; NGOs; socially responsible investors; and impact investors. The meetings could culminate in a high-level conference, which would bring together the participants with senior officials of the governments of the region.

Issues

The initiative could do the following:

- Devise a transparent framework for awarding mineral and oil concessions to legitimate international and regional investors. Currently, most mines and natural-resource concessions continue to be occupied by speculators, preventing their effective development.
- Design mine-to-market shipment projects similar to the Solutions for Hope program.
- Seek opportunities to increase refining and smelting capacity in the region.
- Examine possibilities to improve infrastructure necessary for minerals development such as railroads or hydroelectric projects.
- Establish a responsible investment fund for the Great Lakes region.

Conclusion

After nearly 20 years of war, peace will not come easily to eastern Congo. Due to the changing policy context in the region and increased interest from the international community, however, the possibility for peace has now increased. The issues to be dealt with in a more comprehensive and inclusive peace process are complex, and it will require painstaking mediation work by the United Nations and other interested states to reach agreements on difficult economic, security, and political issues. The peace process will require the attention of multiple actors, from the U.N. secretary-general and regional governments to CEOs of investment firms and local civil-society activists. But the reward for these efforts could be the end of the persistent and bloody struggle to control and profit from eastern Congo.

Endnotes

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